

**CITY OF FARGO, NORTH DAKOTA
CITY OF MINOT, NORTH DAKOTA
*NORTH DAKOTA DEPARTMENT OF TRANSPORTATION***

ON BEHALF OF THE STATE OF NORTH DAKOTA

REQUEST FOR PROPOSAL

REGIONAL INTERMODAL FREIGHT PROJECT

RFP 918-96-06-017

***TO DEVELOP A PLAN FOR REGIONAL INTERMODAL FREIGHT TRANSPORTATION TO
SUPPORT THE REQUIREMENTS OF THE STATE OF NORTH DAKOTA.***

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1.0 INTRODUCTION AND INSTRUCTIONS

1.01 Purpose of the RFP

Transporting locally produced manufactured goods, and specialty or identity preserved agricultural products to foreign destinations requires containerized intermodal transportation. Recently the ability of shippers in much of the Upper Midwest to access affordable links to ocean ports via railroad operators has become expensive and untimely. Intermodal freight originating at the Dilworth, MN terminal is no longer competitive with freight originating at Minneapolis/St. Paul, MN, Winnipeg, MB and other intermodal terminals. Thus, shippers from this region have been forced to transport their specialty agricultural products and manufactured goods by truck to out-lying intermodal terminals for shipment to ocean port facilities.

Locally elected officials from the cities of Fargo and Minot, ND as well as the North Dakota Department of Transportation have developed a proposal to provide regional intermodal co-service freight transportation to the region. This proposal includes the development of an intermodal loading facility in Minot, the existing loading facility in Dilworth, MN, which is within the Fargo/Moorhead metropolitan planning area, and the Burlington Northern Santa Fe (BNSF) rail yards in the two communities to allow direct loading/unloading and transportation of products.

1.02 Contact Personnel, Telephone, Fax Number and E-mail

The North Dakota Department of Transportation will act as the issuing agency for the RFP. The issuing agency contact is the point of contact for this RFP. Questions, information requests and submission of Requests for Proposals must be directed to the issuing agency contact.

ISSUING AGENCY CONTACT:

Jack L. Olson, Senior Planner
Planning and Programming Division
North Dakota Department of Transportation
608 East Boulevard Avenue
Bismarck ND 58505-0700
PHONE: **701-328-1029**
FAX: **701-328-0310**
E-MAIL: **jolson@nd.gov**

The Procurement Officer will oversee the RFP process to assure compliance with state law and rule.

PROCUREMENT OFFICER:

Marilyn Langehaug, Procurement Officer
Financial Management Division
North Dakota Department of Transportation
PHONE: **701-328-4466**
FAX: **701-328-0310**
E-MAIL: **mlangehaug@nd.gov**

1.03 RFP Schedule

This schedule of events represents the State's best estimate of the schedule that will be followed for this RFP. If a component of this schedule, such as the deadline for receipt of proposals, is delayed, the rest of the schedule will be shifted by the same number of days.

- RFP Issued: **AUGUST 28, 2006**
- Deadline for receipt of questions and objections related to the RFP: **SEPTEMBER 8, 2006**
- RFP Opening: **SEPTEMBER 18, 2006**
- Proposal Evaluation Committee evaluation completed by approximately : **SEPTEMBER 22, 2006**
- State issues Notice of Intent to Award a Contract approximately: **SEPTEMBER 22, 2006**
- State issues contract approximately: **SEPTEMBER 29, 2006**
- Contract start: **OCTOBER 9, 2006**

1.04 Return Mailing Address and Deadline for Receipt of Proposals

Offerors must submit **ONE ORIGINAL AND SEVEN COPIES** of their proposal response in a sealed envelope or package and **ONE ORIGINAL** cost proposal in a separately sealed envelope.

Delivery envelopes or packages containing proposals must be clearly addressed as described below to ensure proper delivery and to avoid being opened before the deadline for receipt. Envelopes or packages must be addressed as follows:

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
FINANCIAL MANAGEMENT DIVISION
REQUEST FOR PROPOSAL NO. 918-96-06-017
ROOM 222
608 EAST BOULEVARD AVENUE
BISMARCK, ND 58505-0700**

Proposals must be received by the NDDOT at the location specified no later than **2:00 P.M., CENTRAL** on **SEPTEMBER 18, 2006**. Proposals will not be publicly read at the opening.

Proposals may not be delivered orally, by facsimile transmission, by other telecommunication or electronic means. All proposals and the contents therein will become the property of the Regional Intermodal Co-Service Coordinating Board (RICCB).

Offerors assume the risk of the method of dispatch chosen. The State of North Dakota ("State") assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for actual proposal receipt by the State. It is the offeror's responsibility to ensure that a proposal response is physically deposited with the NDDOT issuing agency contact prior to the date and time specified for the opening. Late proposal responses will not be opened and will be rejected regardless of the degree of lateness or the reason.

1.05 Assistance to Offerors with a Disability

Offerors with a disability that need an accommodation should contact the issuing agency contact prior to the deadline for receipt of proposals so that reasonable accommodation can be made.

1.06 Deadline for Receipt of Questions and Objections

Offerors must carefully review this solicitation for defects, questionable, or objectionable material. All

questions must be in writing addressed to the NDDOT at the above address, directed to the issuing agency contact, and cite the subject RFP number. The issuing agency contact must receive these written questions by the deadline specified in the RFP Schedule of Events to allow issuance of any necessary amendments to the RFP.

This will also help prevent the opening of a defective solicitation and exposure of offeror's proposals upon which an award could not be made. Protests based on the content of the solicitation will be disallowed if these faults have not been brought to the attention of the issuing agency contact, in writing, before the time indicated in the Schedule of Events.

If the question may be answered by directing the questioner to a specific section of the RFP, then the issuing agency contact may answer the question over the telephone. Other questions may be more complex and may require a written amendment to the RFP. The issuing agency contact and procurement officer will make this determination. Oral communication is considered unofficial and non-binding on the State. The offeror must confirm telephone conversations in writing.

1.07 Approved Vendor Requirement

Proposals will be accepted from vendors that are not currently approved vendors on the State's bidders list. The successful offeror may be required to register as an approved vendor upon award.

The successful offeror will be required to complete a vendor application to receive payment and provide a W-9, if a 1099 reportable service is being provided.

For information about vendor registration, visit the State Procurement Office Vendor Registry website at: <http://www.state.nd.us/csd/spo/vendor-registry/bidders-list.htm> or call 701-328-2683 or infospo@state.nd.us.

1.08 Pre-proposal Conference

No pre-proposal conference will be held for this RFP. Offerors are advised to carefully review the RFP and all attachments and submit all questions to the issuing agency contact by the deadline indicated for submission of questions in the schedule of events.

1.09 Amendments to the RFP

If an amendment to this RFP is issued prior to the RFP opening date, the State will notify the general public and all known potential respondents by the best means possible.

1.10 Contract Management assigned

Prior to the award, all contacts with the NDDOT related to the RFP must be directed to the issuing agency contact or the procurement officer. After the contract has been approved and awarded, the coordinator will work with the Regional Intermodal Co-Service Coordinating Board (RICCB) made up of locally elected officials, a state representative and shippers.

1.11 - Terms

- Offeror - Person or firm submitting a proposal in response to a solicitation.
- Proposal evaluation - A summary of all proposal responses received by the NDDOT Procurement Office.
- Proposal response - The executed document submitted by an offeror in response to a solicitation.
- Contract – A deliberate written agreement between two or more competent persons to perform a specific act or acts.

- Contractor - Any person or firm having a contract with a governmental body.
- Solicitation - The process of notifying prospective offerors that the state wishes to receive proposals for furnishing goods or services.

2.0 PROPOSAL SCOPE AND CONTENT

2.01 Scope of Work

The individual or firm selected will provide an assessment of the current market, develop a regional intermodal co-service freight plan and provide the coordinating function for movement of intermodal freight. The coordinator will work with the Regional Intermodal Co-Service Coordinating Board (RICCB) made up of locally elected officials, a state representative and shippers. The work of the Coordinator will be in three phases.

Phase I This phase will consist of developing a plan for regional intermodal co-service freight transportation that includes as a minimum the following elements,

- Conducting market research (including a review of previous studies and information)
- Understanding and defining key markets and stakeholders
- Initiating discussions with shippers to understand the freight rate constraints. Follow by facilitating discussions between BNSF and steamship lines to obtain commitments for improved pricing and service that will determine potential economic models
- Analyzing rail container repositioning rates for Dilworth, MN and Minot, ND
- Formulating a service plan including the number of trains per week
- Defining expectations of terminal operators
- Defining expectations of BNSF
- Developing cooperation with steamship lines
- Determining the feasibility of creating a regional intermodal co-service freight system to serve the greater Fargo and Minot communities.

If the RICCB determines the plan created in Phase I is feasible and acceptable to the shippers, agreed upon by BNSF and committed to by steamship lines, the scope of work for the coordinator will move on to Phase II and Phase III. The RICCB reserves the right to negotiate fees for Phase II and Phase III through a supplementary agreement. If, upon completion of Phase I, the RICCB determines the plan is not feasible or acceptable the coordinator services will be terminated. The RICCB reserves the right to reject any and all proposals received.

Phase II This phase will include the coordination of efficient and cost effective regional intermodal co-service transportation in Dilworth, MN and Minot, ND. This phase will include the following elements,

- Overseeing the start up of the regional intermodal co-service freight project
- Coordinating discussions between terminal operations at Dilworth, MN and Minot, ND
- Establishing policies and procedures for collecting product, equipment distribution, transportation, and final shipment within parameters set by the RICCB

Phase III This phase will consist of developing a long-term agreement to continue the successful implementation and on-going operations of the regional intermodal co-service freight project. This phase will include the following element,

- Developing an agreement that details a system to maintain consistent dialogue and cooperation between shippers, BNSF, steamship lines, terminal operations and the RICCB.

2.02 Background Information

Upper Midwest agricultural producers have historically relied on highways and railroad transportation of their raw products to processing plants in more populated areas. The work ethic of the Midwest laborer has drawn manufacturers of farm and industrial products to locate in this region. With the global economy forcing manufacturers and agricultural producers to become more competitive, the need for economical containerized transportation of raw and finished products is very important. Utilizing the existing railroads that spurred development of the region is a goal of the leaders of the Regional Intermodal Co-Service Freight Project.

Grain and manufactured products transported out of the BNSF Dilworth facility has been a feasible option for a number of years. However, in the past five years this transfer of goods in containers has become financially less attractive to shippers. The cost of re-positioning empty containers and limited service has resulted in a system that is no longer viable for the region's shippers.

2.03 BNSF Negotiations

Negotiations with BNSF personnel reveal they have an understanding of the issues and are willing to discuss regional intermodal co-service at their locations in Dilworth, MN and Minot, ND. They are also willing to discuss service rates and fees. A key component of Phase I of this project will be to negotiate workable rail, cargo unit, and shipping rates with BNSF and the steamship lines.

2.04 Criteria for Selecting a Coordinator

Respondents may be a single entity and or identified partnerships entities. The committee selecting the entity or entities to perform the Coordinator tasks will involve representatives from Fargo, Minot, State of North Dakota and the shipping industry and will use the following criteria:

- Experience in intermodal terminal business, which may include operations, design and/or knowledge of the intermodal freight system (20%)
- Identification of key staff that will be working with this project, which should include their experience, education, knowledge of the Intermodal business and ability for rate negotiation (20%)
- Understanding of the Scope of Work for this Regional Intermodal Co-Service Freight Project – consideration will be given for early completion (30%)
- An estimate of fees (expressed as an hourly rate not to exceed an annual amount) to be charged for Phase I of this project (30%)
 - Do not provide any pricing information in this section of your proposal. The - Cost Proposal - must be submitted in a separate sealed envelope or package clearly labeled "cost proposal". Only one original cost proposal is required

2.05 Timetable for Project

It is the desire of the RICCB to have Phase I completed within 90 days of an executed agreement. Since many of the region's products shipped will be raw agricultural products, the expectation is to have negotiations with BNSF and steamship lines completed in time for the 2006 agricultural production to be transported out of the Dilworth facility. Coordination of co-load intermodal rail service with the Minot facility is contingent upon its completion which may not occur until sometime in 2007. Full Implementation of the Regional Intermodal Co-Service Freight Project is expected to be complete by the fall of 2007.

2.06 Information Available

Previous studies include, and are available upon request:

- Executive Summary - North Dakota Strategic Freight Analysis: The Role of Intermodal Container Transportation in North Dakota 2001-02 (November 2002) Upper Great Plains Transportation Institute
- North Dakota Strategic Freight Analysis: The Role of Intermodal Container Transportation in North Dakota 2001-02 (November 2002) Upper Great Plains Transportation Institute
- Feasibility of a Logistics Center Including Container/Trailer Intermodal Transportation in the Fargo/Moorhead Area (January 2005) Upper Great Plains Transportation Institute
- Shipping Options for North Dakota – A Review of Feasibility and Other Studies (November 05) Upper Great Plains Transportation Institute.
- Minot Intermodal Feasibility Study (July 2004) Carter Burgess

2.07 Cost Proposal

Cost proposals must include an estimate of fees (expressed as an hourly rate not to exceed an annual amount) to be charged for Phase 1 of this project.

The Contractor must also identify any other additional costs associated with services.

Do not provide any pricing information in this section of your proposal. Attachment [6.04](#) - Cost Proposal - must be submitted in a separate sealed envelope or package clearly labeled “cost proposal”. Only one original cost proposal is required

All costs associated with the contract must be stated in U.S. currency.

Offerors should describe any discounts terms for prompt payment. Discounts for prompt payment will not be considered in evaluating cost.

3.0 GENERAL CONTRACT INFORMATION

3.01 Contract Period

The RICCB intends to enter into a contract having effective dates beginning **October 1, 2006** and ending **September 30, 2007**, with the right to extend for additional twelve month periods upon mutual agreement, not to exceed **twenty-four (24)** months total. This contract will not automatically renew. Annually, the Contractor and the RICCB will review the need for extension prior to the contract expiration date.

3.02 Contract Type & Price Adjustment

This contract is a Firm Fixed Price contract.

The contract prices shall be firm for the first twelve (12) months of the contract period. Thereafter, on an annual basis, all prices in the implementing of extensions to the contract(s) may be subject to price adjustment (increase / decrease).

3.03 Standard Contract Provisions

The contract document which will result from this RFP is under review. The State and RICCB will work

together and will negotiate the final terms of the contract document with the successful offeror.

3.04 Proposal as a Part of the Contract

This RFP and the successful contractor's proposal will be incorporated into the contract.

3.05 Additional Terms and Conditions

The State reserves the right to add, delete, or modify terms and conditions during contract negotiations. These terms and conditions will be within the scope of the RFP and will not affect the proposal evaluations.

3.06 Supplemental Terms and Conditions

Proposals including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with those contained in this RFP or that diminish the State's right's under any contract resulting from the RFP will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award. After award of contract:

- (a) If conflict arises between a supplemental term or condition included in the proposal and a term or condition of the RFP, the term or condition of the RFP will prevail; and
- (b) If the State's rights would be diminished as a result of application of a supplemental term or condition included in the proposal, the supplemental term or condition will be considered null and void.

3.07 Contract Approval

This RFP does not, by itself, obligate the State. The State's obligation will commence when the RICCB approves the contract. Upon written notice to the contractor, the State may set a different starting date for the contract

3.08 Contract Changes - Unanticipated Amendments

During the course of this contract, the contractor may be required to perform additional work. That work will be within the general scope of the initial contract. When additional work is required, the RICCB will provide the contractor a written description of the additional work and request the contractor to submit a firm time schedule for accomplishing the additional work and a firm price for the additional work. Cost and pricing data must be provided to justify the cost of amendments.

The contractor will not commence additional work until the contract manager has secured any required State approvals necessary for the amendment and issued a written contract amendment, approved by the RICCB.

3.09 Indemnification and Insurance Requirements

Indemnification and insurance requirements for this contract are currently under review. The State and RICCB will work together and with the successful offeror to determine the level of coverage required.

3.10 Taxes and Taxpayer Identification

The contractor must provide a valid Vendor Tax Identification Number as a provision of the contract.

The State is not responsible for and will not pay local, state, or federal taxes. The State sales tax exemption number is E-2001. The Federal tax free transaction number is 45-70-0010K. Certificates are

available upon request.

A contractor performing any contract, including service contracts, for the United States Government, State of North Dakota, counties, cities, school districts, park board or any other political subdivisions within North Dakota is not exempt from payment of sales or use tax on material and supplies used or consumed in carrying out contracts. In these cases, the contractor is required to file returns and pay sales and use tax just as required for contracts with private parties. Contact the North Dakota Tax Department at 701-328-3470 or visit its website at <http://www.nd.gov/tax/> for more information.

A contractor performing any contract, including a service contract, within North Dakota is also subject to the corporation income tax, individual income tax, and withholding tax reporting requirements, whether the contract is performed by a corporation, partnership, or other business entity, or as an employee of the contractor. In the case of employees performing the services in the state, the contractor is required to withhold state income tax from the employees' compensation and remit to the state as required by law. Contact the North Dakota Tax Department at 701-328-3125 or visit its web site for more information

3.11 Proposed Payment Procedures

The State will make payments based on a negotiated payment rate. Each billing must consist of an invoice and documented service event at the rate negotiated. No payment will be made until the RICCB has approved the invoice.

The State will not make any advanced payments before performance by the contractor under this contract.

3.12 Contract Funding

It is agreed that in the event funding appropriations to the State are not obtained and continued at a level sufficient to allow for payments to the Vendor, for the goods or services described herein, the obligations of each party hereunder may be terminated at the option of the State, provided that any such termination shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

3.13 Payment Terms

No payment will be made until the RICCB approves the contract.

Payment for commodities and services received under contracts will normally be made within 30 calendar days after receipt and acceptance by the NDDOT or after receipt of a correct invoice, whichever is later. Payment inquiries must be directed to [Jack Olson, Planning & Programming Division, NDDOT](#).

3.14 Contract Personnel

The RICCB must approve any change of the contractor's company members named in the proposal, in advance and in writing. Personnel changes that are not approved by the State may be grounds for the State to terminate the contract.

3.15 Right to Inspect Place of Business and Conduct Investigations

At reasonable times, the State may inspect those areas of the contractor's place of business that are related to the performance of a contract. If the State makes an inspection, the contractor must provide reasonable assistance.

The State may, at its discretion, hire an independent investigation firm or contact authorities to conduct a background investigation of the successful offeror per NDAC 04-12-11-04.

3.16 Termination for Default

If the RICCB determines that the contractor has refused to perform the work or has failed to perform the work set forth in the proposal, the RICCB may, by providing thirty (30) days written notice to the contractor, terminate the contract.

3.17 Independent Entity

The contractor is an independent entity under this contract and is not a State employee for any purpose. The contractor retains sole and absolute discretion in the manner and means of carrying out the contractor's activities and responsibilities under the contract, except to the extent specified in the RFP, Proposal and contract.

3.18 Assignment

Contractor may not assign or otherwise transfer or delegate any right or duty without the State's express written consent.

3.19 Disputes - Applicable Law and Venue

Any dispute arising out of this agreement will be resolved under the laws of the State of North Dakota.

3.20 Informal Debriefing

When the contract is completed, an informal debriefing may be performed at the discretion of the RICCB. If performed, the scope of the debriefing will be limited to the work performed by the contractor. The debriefing time and location will be negotiated between the RICCB and contractor.

4.0 PROPOSAL FORMAT AND CONTENT

4.01 Proposal Format and Content

The State discourages overly lengthy and costly proposals; however, in order for the State to evaluate proposals fairly and completely, offerors must follow the format set out in this RFP and provide all information requested.

4.02 Introduction

Proposals must include the complete name and address of offeror's firm and the name, mailing address, and telephone number of the person the State should contact regarding the proposal.

Proposals must confirm that the offeror will comply with all provisions in this RFP. The proposal must disclose any instances where the firm or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota).

Proposals must be signed by a company officer empowered to bind the company. An offeror's failure to include these items in the proposals may cause the proposal to be determined to be non-responsive and the proposal may be rejected.

4.03 Experience and References

Twenty percent (20%) of the total possible evaluation points will be assigned to this criterion.

Offerors must provide comprehensive narrative statements that illustrate their experience in intermodal terminal business, which may include operations, design and/or knowledge of the intermodal freight system.

Offeror must provide reference information for three companies with whom your organization currently does or has recently performed similar services and who would accept follow-up phone calls from the RICCB as part of a reference check. Please provide contact name(s), business name(s), address(s)

4.04 Staff

Twenty percent (20%) of the total possible evaluation points will be assigned to this criterion.

Offerors must identify key staff that will be working with this project, which should include their experience, education, knowledge of the intermodal business and ability for rate negotiation.

4.05 Understanding of the RFP

Thirty percent (30%) of the total possible evaluation points will be assigned to this criterion.

Offerors must provide comprehensive narrative statements that set out the methodology and management plan it intends to employ. Offerors must illustrate how the methodology and plan will serve to accomplish the work and provide the deliverables described in the scope of work for the Regional Intermodal Co-Service Freight Project. Consideration will be given for a proposal which outlines an early project completion.

4.06 Cost Proposal

Thirty percent (30%) of the total possible evaluation points will be assigned to cost.

Offerors must provide an estimate of fees (expressed as an hourly rate not to exceed an annual amount) to be charged for Phase I of this project.

Prompt payment discounts terms proposed by the offeror will not be considered in evaluating cost.

The cost amount used for evaluation may be affected by the application of North Dakota preference laws (N.D.C.C. § 44-08-01). The preference given to a resident offeror will be equal to the preference given or required by the state of the nonresident offeror (i.e. reciprocal preference).

When evaluating cost proposals from nonresident (out-of-state) offerors, the procurement officer will determine whether the offeror's state of residence has a preference law for vendors resident in that state. The cost proposal of the nonresident offeror will be increased by the same percentage of preference given to vendors resident in that state.

For example, if the state law of the nonresident offeror requires a 5% preference for vendors resident in that state, the procurement officer will increase that offeror's cost proposal by 5% before evaluation.

See <http://www.state.nd.us/csd/spo/resources.html> for a list of States Preference Laws or contact the North Dakota State Procurement Office at 701-328-2683.

After applying any reciprocal preference, the lowest cost proposal will receive the maximum number of

points allocated to cost. The point allocations for cost on the other proposals will be determined as follows:

Price of Lowest Cost Proposal

Price of Proposal Being Rated X Total Points for Cost Available = Awarded Points

Do not provide any pricing information in this section of your proposal. Pricing must be submitted in a separate sealed envelope or package clearly labeled "cost proposal".

5.0 STANDARD PROPOSAL INFORMATION

5.01 Authorized Signature

The offeror submitting the proposal response or that offeror's duly authorized agent or representative must sign the proposal response manually in ink. The name and title of the person signing the proposal response must be typed or printed above the signature. To be signed by **Owner; Corp. Pres., Vice Pres., or other authorized Corp. Officer** or proposal may be rejected. (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

5.02 State Not Responsible for Preparation Costs

The State will not pay any cost associated with the preparation, submittal, presentation, or evaluation of any proposal.

5.03 Conflict of Interest

Offerors must disclose any instances where the firm or any individuals working on the contract has a possible conflict of interest and, if so, the nature of that conflict (e.g. employed by the State of North Dakota). The State reserves the right to cancel the award if any interest disclosed from any source could either give the appearance of a conflict or cause speculation as to the objectivity of the offeror's proposal. The State's determination regarding any questions of conflict of interest is final.

5.04 Offeror's Certification

By signature on the proposal, an offeror certifies that it complies with:

- (a) the laws of the State of North Dakota;
- (b) North Dakota Administrative Code;
- (c) all applicable local, state, and federal laws, code, and regulations;
- (d) the applicable portion of the Federal Civil Rights Act of 1964;
- (e) the Equal Employment Opportunity Act and the regulations issued by the federal government;
- (f) the Americans with Disabilities Act of 1990 and the regulations issued by the federal government;
- (g) all terms, conditions, and requirements set forth in this RFP;
- (h) a condition that the proposal submitted was independently arrived at, without collusion;
- (i) a condition that the offer will remain open and valid for the period indicated in this solicitation; and
- (j) a condition that the firm and any individuals working on the contract do not have a possible conflict of interest (e.g. employed by the State of North Dakota)

If any offeror fails to comply with the provisions stated in this paragraph, the State reserves the right to reject the proposal, terminate the contract, or consider the contractor in default.

5.05 Offer Held Firm

Proposals must remain open and valid for at least sixty (60) days from the deadline specified for submission of proposals. In the event award is not made within sixty (60) days, the State will send a written request to all offerors deemed susceptible for award asking offerors to hold their price firm for a longer specified period of time.

5.06 Amendments to Proposals and Withdrawals of Proposals

Offerors may amend or withdraw proposals prior to the deadline set for receipt of proposals. No amendments will be accepted after the deadline unless they are in response to the State's request. After the deadline, offerors may make a written request to withdraw proposals and provide evidence that a substantial mistake has been made. The procurement officer may permit withdrawal of the proposal upon verifying that a substantial mistake has been made, and the State may retain the offeror's bid bond or other bid type of bid security, if one was required.

5.07 Subcontracts and Joint Ventures

If an offeror intends to use subcontractors, the offeror must identify in the proposal the names of the subcontractors and the portions of the work the subcontractors will perform as well as the following:

- (a) Complete name of the subcontractor;
- (b) Complete address of the subcontractor;
- (c) Type of work the subcontractor will be performing;
- (d) Percentage of work the subcontractor will be providing;
- (e) The offeror must provide business qualification and technician certification information regarding the subcontractor(s) when the subcontractor will perform Regional Intermodal Freight Project;
- (f) evidence, as set out in the relevant section of this RFP, that the subcontractor is registered and, if applicable, holds a valid North Dakota business license; and
- (g) A written statement, signed by each proposed subcontractor, which clearly verifies that the subcontractor is committed to render the services required by the contract.

An offeror's failure to provide this information, within the time set, may cause the State to consider its proposal non-responsive and reject it. The substitution of one subcontractor for another may be made only at the discretion and prior written approval of the procurement officer prior to award and of the RICCB after contract award.

5.08 Disclosure of Proposal Contents and Compliance with North Dakota Open Records Laws

All proposals and other material submitted become the property of the Regional Intermodal Co-Service Coordinating Board (RICCB) and may be returned only at the RICCB's option. All proposals and related information, including detailed cost information, are exempt records and will be held in confidence until an award is made, in accordance with N.D.C.C. § 54-44.4-10(2).

Offerors may make a written request that trade secrets and other proprietary data contained in proposals be held confidential. Material considered confidential by the offeror must be clearly identified, and the offeror must include a brief statement that sets out the reasons for confidentiality. See the North Dakota Office of the Attorney General website for additional information. <http://www.ag.state.nd.us/OpenRecords/ORM.htm>

After award, proposals will be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If a request for public information is received, the procurement officer, in consultation with the Office of the Attorney General, will determine whether the information is an exception to the North Dakota open records law, and the information will be processed appropriately.

Parties interested in receiving public information must complete and mail the Form SFN16595 available at this website: <http://www.dot.nd.gov/docs/SFN16595.pdf> Fees may apply.

5.09 Evaluation of Proposal

All proposals will be reviewed to determine if they are responsive to the requirements of this solicitation. An evaluation committee will evaluate responsive proposals. The evaluation will be based on the evaluation factors set forth in this RFP and will consider information obtained subsequent to any discussions with offerors determined to be reasonably susceptible for award.

5.10 Right of Rejection

The State reserves the right to reject any proposal, in whole or in part. Proposals received from debarred or suspended vendors will be rejected. The procurement officer may reject any proposal that is not responsive to all of the material and substantial terms, conditions, and performance requirements of the RFP.

Offerors may not qualify the proposal nor restrict the rights of the State. If an offeror does so, the procurement officer may determine the proposal to be a non-responsive counter-offer and the proposal may be rejected.

The issuing agency contact may waive minor informalities that:

- do not affect responsiveness;
- are merely a matter of form or format;
- do not change the relative standing or otherwise prejudice other offers;
- do not change the meaning or scope of the RFP;
- are insignificant, negligible, or immaterial in nature;
- do not reflect a material change in the work; or
- do not constitute a substantial reservation against a requirement or provision,

The State reserves the right to reject any proposal determined to be not responsive, and to reject the proposal of an offeror determined to be not responsible. The State also reserves the right to refrain from making an award if it determines it to be in its best interest.

5.11 Clarification of Offers

In order to determine if a proposal is reasonably susceptible for award, communications by the issuing agency contact or procurement officer are permitted with an offeror to clarify uncertainties or eliminate confusion concerning the contents of a proposal and determine responsiveness to the RFP requirements. Clarifications may not result in a material or substantive change to the proposal. The initial evaluation may be adjusted because of a clarification under this section.

After receipt of proposals, if there is a need for any substantial clarification or material change in the RFP, an amendment will be issued. The amendment will incorporate the clarification or change, and a new date and time established for new or amended proposals. Evaluations may be adjusted as a result of receiving new or amended proposals.

5.12 Discussions and Best and Final Offers

The State may conduct discussions or request best and final offers with offerors that have submitted proposals determined to be reasonably susceptible for award. The State is not obligated to do so, therefore, vendors should submit their best terms (cost and technical). The purpose of these

discussions is to ensure full understanding of the requirements of the RFP and the offeror's proposal. Discussions will be limited to specific sections of the RFP or proposal identified by the issuing agency contact. Discussions, if held, will be after initial evaluation of proposals by the proposal evaluation committee. If modifications to the proposal are made as a result of these discussions, the modifications must be put in writing.

Offerors with a disability needing accommodation should contact the issuing agency contact prior to the date set for discussions so that reasonable accommodation can be made.

5.13 Preference Laws

The preference given to a resident North Dakota offeror will be equal to the preference given or required by the state of the nonresident bidder. A "resident" North Dakota bidder, offeror, seller, or contractor is one that has maintained a bona fide place of business within this State for at least one year prior to the date on which a contract was awarded. For a listing of state preference laws, visit the following website: http://tpps.das.state.or.us/purchasing/pref-law/reciprocal_detail.php or contact the North Dakota State Procurement Office at 701-328-2683.

5.14 Contract Negotiation

After final evaluation, the evaluation committee may negotiate with the offeror of the highest-ranked proposal. Negotiations, if held, will be within the scope of the request for proposals and limited to those items that would not have an effect on the ranking of proposals. If the highest-ranked offeror fails to provide necessary information for negotiations in a timely manner, or fails to negotiate in good faith, the State may terminate negotiations and negotiate with the offeror of the next highest-ranked proposal.

If contract negotiations are held, the offeror will be responsible for their own costs including travel and per diem expenses.

5.15 Failure to Negotiate

If the selected offeror:

- fails to provide the information required to begin negotiations in a timely manner;
- fails to negotiate in good faith;
- indicates it cannot perform the contract within the budgeted funds available for the service; or
- if the offeror and the State, after a good faith effort, cannot come to terms,

The State may terminate negotiations with the offeror initially selected and commence negotiations with the next highest ranked offeror.

5.16 Notice of Intent to Award - Offeror Notification of Selection

After the completion of contract negotiation the procurement officer will issue a written Notice of Intent to Award and send copies to all offerors. The Notice of Intent to Award will set out the names and addresses of all offerors and identify the proposal selected for award. The scores and placement of other offerors will not be part of the Notice of Intent to Award.

The successful offeror named in the Notice of Intent to Award is advised not to begin work, purchase materials, or enter into subcontracts relating to the service until both the successful offeror and the State sign the contract.

5.17 Protest and Appeal

North Dakota law provides that an interested party may protest a solicitation. If an interested party wishes to protest the content of this RFP, the protest must be received, in writing, by the procurement officer by the date set forth in the RFP schedule.

An interested party may protest the award or proposed award of a contract. If an offeror wishes to protest the award of a contract or proposed award of a contract, the protest must be received, in writing, by the procurement officer within seven calendar days after the date the Notice of Intent to Award was issued.

6.0 ATTACHMENTS

Sections 6.01 – 6.07 will be used by the Proposal Evaluation Committee to evaluate the offered proposals. Proposals will be evaluated against the questions set out below. Evaluators - Do not assign points to individual questions; instead, award a total score for each evaluation criterion.

6.01 Sample Criteria - Proposal Evaluation – Experience and References

EVALUATION CRITERIA AND SCORING

Offeror Individual or Firm Name _____

Name of Proposal Evaluation Member _____

Date of Review _____

RFP Title/Number: REGIONAL INTERMODAL FREIGHT PROJECT, RFP 918-96-06-017

THE TOTAL NUMBER OF POINTS USED TO SCORE THIS CONTRACT IS 100

Weight **20 Percent**. Maximum Point Value for this Section

100 Points x **20 Percent = 20 Points**

| Rating Scale (20 POINT Maximum) | |
|---|---|
| Point Value | Explanation |
| 0-4 | None. Not addressed or response of no value |
| 5-8 | Fair. Limited applicability |
| 9-12 | Good. Some applicability |
| 13-16 | Very Good. Substantial applicability |
| 17-20 | Excellent. Total applicability |

Has the firm demonstrated experience in completing similar projects?

Evaluator's Notes: _____

How successful is the general history of the firm regarding timely and successful completion of contracts?

Evaluator's Notes: _____

Has the firm provided the required reference information?

Evaluator's Notes: _____

EVALUATOR'S POINT TOTAL FOR 6.01 (Maximum 20**)** _____

6.02 Sample Criteria - Proposal Evaluation – Staff

Weight **20 Percent**. Maximum Point Value for this Section
100 Points x **20 Percent** = **20 Points**

| Rating Scale (20 POINT Maximum) | |
|---|---|
| Point Value | Explanation |
| 0-4 | None. Not addressed or response of no value |
| 5-8 | Fair. Limited applicability |
| 9-12 | Good. Some applicability |
| 13-16 | Very Good. Substantial applicability |
| 17-20 | Excellent. Total applicability |

How extensive is the applicable education and experience of the personnel designated to work on the project?

Evaluator's Notes: _____

How well is accountability defined?

Evaluator's Notes: _____

Is the offeror open to rate negotiation?

Evaluator's Notes: _____

EVALUATOR'S POINT TOTAL FOR 6.02 (Maximum 20**)** _____

6.03 Sample Criteria - Proposal Evaluation – Understanding of the RFP

Weight **30 Percent**. Maximum Point Value for this Section
100 Points x **30 Percent** = **30 Points**

| Rating Scale (30 POINT Maximum) | |
|---|---|
| Point Value | Explanation |
| 0-6 | None. Not addressed or response of no value |
| 7-12 | Fair. Limited applicability |
| 13-18 | Good. Some applicability |
| 19-24 | Very Good. Substantial applicability |
| 25-30 | Excellent. Total applicability |

Has the offeror demonstrated a thorough understanding of the purpose and scope of the project?

Evaluator's Notes: _____

Has the offeror identified pertinent issues and potential problems related to the project?

Evaluator's Notes: _____

Has the submitted proposal addressed the requirements in the RFP?

Evaluator's Notes: _____

How well does the plan support the RFP?

Evaluator's Notes: _____

EVALUATOR'S POINT TOTAL FOR 6.02 (Maximum 30**)** _____

6.04 Cost Proposal

RATE PER HOUR FOR PHASE 1

\$ _____

NOT TO EXCEED ANNUAL AMOUNT – PHASE 1

\$ _____ *

Offerors must identify any additional costs associated with services

Offerors may identify any discounts for early payment terms.

EVALUATOR'S POINT TOTAL FOR 6.04 (Maximum 30)

_____ *

6.05 Sample Form - Request for Proposal Evaluation Summary – Evaluator Total

| | | |
|---|-------------------------------|----------|
| Name of RFP: REGIONAL INTERMODAL FREIGHT PROJECT | | |
| RFP Number: RFP 918-96-06-017 | | |
| Vendor Being Evaluated: | | |
| Evaluator Name: | | |
| Date: | | |
| Technical Evaluation (Maximum 70 Points) | Maximum Points Category | by Score |
| Experience and References | 20 | |
| Staff | 20 | |
| Understanding of the RFP | 30 | |
| Cost Evaluation (Maximum 30Points) 1. Make adjustments for reciprocal preference, if necessary. See list of States Preference Laws: http://www.state.nd.us/csd/spo/resources.html 2. Calculated points awarded for price. <u>Price of Lowest Cost Proposal</u> <u>Price of Proposal Being Rated</u> X 30points = Awarded Points | | |
| 5. Cost | 30 | |
| Total | | |

6.06 Sample Form - Request for Proposal Evaluation Summary – Vendor Total

| | | | | | | |
|--|----------------------------------|---|-------------|-------------|-------------|-------------|
| Name and Number of RFP: REGIONAL INTERMODAL FREIGHT PROJECT, 918-96-06-017 | | | | | | |
| Name of Offeror: | | | | | | |
| Date: | | | | | | |
| Technical Evaluation Criteria | 70 POINTS Maximum | Evaluator 1 | Evaluator 2 | Evaluator 3 | Evaluator 4 | Evaluator 5 |
| Experience and References | 20 | | | | | |
| Staff | 20 | | | | | |
| Understanding of the RFP | 30 | | | | | |
| Evaluator Totals | | | | | | |
| Grand Total | | Note: Sum of all individual scores. | | | | |
| Technical Proposal Score | | Note: Total of individual points divided by the number of evaluators (70 point Maximum). | | | | |
| Cost Propose Score | | Note: (30 point Maximum) | | | | |
| TOTAL | | | | | | |

6.07 Sample Form - Evaluation Committee Summary

| | | | | | | |
|--|----------------------------------|----------|----------|----------|----------|----------|
| Name and Number of RFP: REGIONAL INTERMODAL FREIGHT PROJECT, 918-96-06-017 | | | | | | |
| Date: | | | | | | |
| Technical Evaluation Criteria | 70 POINTS Maximum | Vendor 1 | Vendor 2 | Vendor 3 | Vendor 4 | Vendor 5 |
| Experience and References | 20 | | | | | |
| Staff | 20 | | | | | |
| Understanding of the RFP | 30 | | | | | |
| Technical Proposal Score (70 points Maximum) | | | | | | |
| Cost Proposal Score (30 points Maximum) | | | | | | |
| Grand Total | | | | | | |

6.08 Sample Notice of Award

**STATE OF NORTH DAKOTA
NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
608 EAST BOULEVARD AVENUE
BISMARCK, ND 58505-0700**

DATE

NOTICE OF INTENT TO AWARD

Request for Proposal (RFP) **918-96-06-017, REGIONAL INTERMODAL FREIGHT PROJECT** was issued by the **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION** on **AUGUST 28, 2006**

The following vendors submitted proposals in response to the RFP:

LIST NAMES AND ADDRESSES OF ALL OFFERORS THAT SUBMITTED PROPOSALS OR INCLUDE AS AN ATTACHMENT.

A committee evaluated the proposals based upon the criteria stated in the RFP to select the offeror that submitted the most advantageous proposal. We announce our intent to award a contract to **NAME OF SUCCESSFUL OFFEROR.**

The successful offeror is instructed not to begin work, purchase materials, or enter into subcontracts relating to the service until both the recipient and the State sign the contract.

An offeror may protest this Notice of Intent to Award by submitting a written protest to the procurement officer within seven calendar days after the date of this notice.

On behalf of the **NORTH DAKOTA DEPARTMENT OF TRANSPORTATION**, thank you for your efforts in preparing a proposal in response to this solicitation. We appreciate your interest in doing business with the State of North Dakota, and your company will remain our bidders list for any future solicitations of a similar nature.

If you have any questions, please feel free to contact me at (701) **328-4466**.

Sincerely,

Marilyn K. Langehaug

Procurement Officer

Financial Management Division

6.09 Checklist for Offerors

- ☐ Submit any questions, comments, or requests for clarification to the issuing agency contact by the deadline for submission of questions.
- ☐ Review the RFP and evaluation criteria carefully – Be sure to respond to all points.
- ☐ An individual authorized to bind the offeror to the provisions of the RFP must sign the proposal.
- ☐ Provide the required number of references.
- ☐ Provide all documents or materials that must be submitted with the RFP.
- ☐ Identify and label any sections of the proposal you feel contain confidential information.
- ☐ Submit cost proposal [6.04](#) in a separate sealed envelope.